



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,974	01/26/2004	Gary T. Neel	06882.0095-00	9318
22852 7590 03/16/2010 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				
EXAMINER WOODS, TERESA S				
ART UNIT		PAPER NUMBER		
3686				
MAIL DATE		DELIVERY MODE		
03/16/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/764,974

Applicant(s)

NEEL ET AL.

Examiner

TERESA WOODS

Art Unit

3686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 9, 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: 1/26/04, 7/20/04, 5/4/05, 6/14/05

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 01/26/2004, and subsequent reply filed on 10/09/2009.
2. Claim 1-30 are currently pending and have been examined.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-7 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciurczak (US 2002/0193671 A1) in view of Cunningham (US 6,306,104 B1).

1. **Claim 1:**

Ciurczak discloses the limitations as shown below:

- *storing said test result in said medical diagnostic testing device* (see at least Ciurczak's ¶0030 and Maus' column 3, lines 49-56). In the second citation, the stored test results are taught.
- *recording a voice message, associated with said test result, in said medical diagnostic test device* (see at least Ciurczak's ¶0101 and Maus' Fig. 1A, column 12, lines 14-26).

Ciurczak discloses the limitations as shown in the rejections above, and

Ciurczak discloses the following limitations with Cunningham further disclosing:

- *obtaining a test result using said medical diagnostic testing device* (see at least column 43, lines 4-21).

This citation teaches steps to obtain results of a medical diagnostic with the use of a device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Ciurczak and Maus' device and system with the medical diagnostic testing device of Cunningham to provide a user-friendly way to perform any self-diagnosis tests and get results quickly to have improved the efficiency of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

2. **Claim 2:**

Ciurczak and Cunningham disclose the limitations as shown in the rejections above, but Cunningham discloses the following limitations:

- *applying a sample to a test strip* (see at least column 1, lines 41-48);
- *said medical diagnostic testing device interacting with said test strip, with said sample applied thereto, to obtain at least one measurement; and* (see at least column 1, lines 41-48)
- *determining said test result based on said at least one measurement* (see at least column 1, lines 41-48).

This reference describes a glucose monitoring device that utilizes test strips to determine the glucose level in blood. Ciurczak's medical diagnostic testing device and system with the interacting test strips Cunningham's to provide a user-friendly way to perform any self-diagnosis tests and get results quickly. This would help to improve the quality of self-medical care for others.

3. **Claims 3 and 15:**

Ciurczak and Cunningham disclose the limitations mentioned above. Cunningham does not disclose the following limitation. However, Ciurczak further discloses *wherein said sample is whole blood* (see at least Ciurczak's Abstract, ¶0034 and Maus' Abstract, column 3; lines 34-46). In the second reference, human blood samples serve as whole blood.

4. **Claim 4:**

Ciurczak and Cunningham disclose the limitations mentioned above. Cunningham does not disclose the following limitation. However, Ciurczak further discloses *wherein said test result is a glucose level in said sample* (see at least Ciurczak's Abstract, ¶0022 and Maus' column 1; lines 41-48).

5. **Claim 5:**

Maus and Cunningham disclose the limitations mentioned above. Cunningham does not disclose the following limitation. However, Maus further discloses *wherein said at least one measurement includes an optical measurement* (see at least Ciurczak's Fig. 11, ¶0045, ¶0103 and Maus' Fig. 5, column 18, lines 9-11). The second reference has a display screen to visibly see the measured results.

6. **Claim 6:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Cunningham discloses *wherein said at least one measurement includes an electrical measurement* (see at least Ciurczak's Fig. 11A, column 25, lines 18-24 and Maus' Fig. 11A, column 25, lines 18-24). This reference describes electric contacts that are used to

detect the glucose. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Cunningham's electric contacts with Ciurczak's medical diagnostic testing device to provide an efficient way to perform self-diagnosis tests and get results quickly. This would help to improve the quality of self-medical care for others since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

7. Claim 7:

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Cunningham discloses *said medical diagnostic testing device displaying said test result* (see at least Ciurczak's Fig. 5-14, column 25, lines 55-60 and Maus' Fig. 5-14, column 25, lines 55-60). This reference has a display screen to visibly see the measured results. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Cunningham's displayable results with Ciurczak's medical diagnostic testing device to provide a user-friendly way to perform any self-diagnosis tests and get results quickly. This would help to improve the quality of self-medical care for others since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

8. **Claim 12:**

Ciurczak discloses the limitations as shown below:

- *a memory for storing said test result* (see at least Ciurczak's ¶0030 and Maus' column 3, lines 49-56). In the second citation, the stored test results are taught.
- *an audio system for recording a voice message associated with said test result* (see at least Ciurczak's ¶0101 and Maus' Fig. 1A, column 12, lines 14-26).

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Cunningham discloses the following limitations:

- *a testing system for obtaining a test result* (see at least column 43, lines 4-21).

This citation teaches steps to obtain results of a medical diagnostic with the use of a device. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Ciurczak and Maus' device and system with the medical diagnostic testing device of Cunningham to provide a user-friendly way to perform any self-diagnosis tests and get results quickly to have improved the efficiency of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

9. **Claim 13:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Cunningham discloses *a test strip interface for receiving a test strip* (see at least column 1, lines 41-48). This reference describes a glucose monitoring device that utilizes test strips to determine the glucose level in blood. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Cunningham's interacting test strips with Ciurczak's medical diagnostic testing device to provide a user-friendly way to perform any self-diagnosis tests and get results quickly. This would help to improve the quality of self-medical care for others.

10. **Claim 14:**

Ciurczak discloses the limitations as shown below:

- *a controller for controlling said measurement system, said controller determining said test result based on said at least one measurement* (see at least Ciurczak's ¶0096 and Maus' column 5, line 51 to line 6, line 13). Here, the meter containing a processor, memory and resulting test strip components serves as a controller.
- *a measurement system for interacting with said test strip, with a sample applied thereto, to obtain at least one measurement; and* (see at least Ciurczak's ¶0096 and Maus' Fig. 1A, column 11, lines 4-65).

11. **Claim 16:**

Ciurczak and Cunningham disclose the limitations mentioned above. Cunningham does not disclose the following limitation. However, Ciurczak further

discloses *wherein said test result is a glucose level in said sample* (see at least Ciurczak's column 7; lines 5-10 and Maus' column 3; line 34-46).

12. Claim 17:

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Cunningham discloses *wherein said at least one measurement includes an optical measurement* (see at least Fig. 5, column 18, lines 9-11). This reference has a display screen to visibly see the measured results. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Cunningham's displayable results with Ciurczak's medical diagnostic testing device to provide a user-friendly way to perform any self-diagnosis tests and get results quickly. This would help to improve the quality of self-medical care for others.

13. Claim 18:

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Cunningham discloses *wherein said at least one measurement includes an electrical measurement* (see at least Fig. 11A, column 25, lines 18-24). This reference describes electric contacts that are used to detect the glucose. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Cunningham's

electric contacts with Ciurczak's medical diagnostic testing device to provide an efficient way to perform self-diagnosis tests and get results quickly. This would help to improve the quality of self-medical care for others.

14. **Claim 19:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Cunningham discloses *said medical diagnostic testing device displaying said test result* (see at least Fig. 5-14, column 25, lines 55-60). This reference has a display screen to visibly see the measured results. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Cunningham's displayable results with Ciurczak's medical diagnostic testing device to provide a user-friendly way to perform any self-diagnosis tests and get results quickly. This would help to improve the quality of self-medical care for others.

15. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciurczak (US 2002019367 A1) in view of Official Notice.

16. **Claim 20 :**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation:

- *a microphone for receiving said voice message;*
- *a digital sampler to provide digital samples of said voice message;*
- *digital storage for storing said digital samples of said voice message*

However, the Examiner takes **Official Notice** that it is old and well-known in the electronics arts that the components, used in audio systems, are microphones, digital voice samples, and digital voice storage. It would have been obvious to a person having ordinary skill in the art at the time of invention to combine audio components with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality of self-medical care for diabetic patients.

17. **Claim 21:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation:

- *a speaker for playing said voice message stored in said digital storage.*

However, the Examiner takes **Official Notice** that it is old and well-known in the electronics arts that the components, used in audio speakers to play back stored messages. It would have been obvious to a person having ordinary skill in the art at the time of invention to combine audio components with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring

device. This would continue to help improve the quality of self-medical care for diabetic patients.

18. Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox (US 20050002483 A1) in view of Official Notice.

19. **Claim 26:**

Wilcox discloses limitations as shown in the rejections above. Wilcox does not disclose *wherein said audio system includes a microphone for receiving said voice message*. However, the Examiner takes **Official Notice** that it is old and well-known in the electronics arts that the components, used in audio systems, are microphones and speakers, and recorders. It would have been obvious to a person having ordinary skill in the art at the time of invention to combine audio components with Wilcox's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality of self-medical care for diabetic patients.

20. **Claim 28:**

Wilcox discloses limitations as shown in the rejections above. Wilcox does not disclose *wherein said audio system includes a speaker for playing said recorded voice message*. However, the Examiner takes **Official Notice** that it is old and well-known in the electronics arts that the components, used in audio systems, are microphones and speakers, and recorders. It would have been obvious to a person having ordinary skill in the art at the time of invention to combine audio components with Wilcox's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality of self-medical care for diabetic patients.

21. Claims 8-11 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciurczak (US 2002019367 A1) in view of Wilcox (US 20050002483 A1).

22. **Claim 8:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Wilcox discloses *said medical diagnostic testing device displaying a stored test result* (see at least Fig. 2, ¶0016). In this reference, the test results are radiology images stored on an

image web server. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to combine Wilcox's displayable stored test results with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality of self-medical care for diabetic patients since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

23. **Claim 9:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Wilcox discloses *said medical diagnostic testing device playing a recorded voice message* (see at least Fig. 3, ¶0009). In this reference, the recorded voice message is the interpretation of diagnosed images. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to combine Wilcox's voice message with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality of self-medical care for diabetic patients since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

24. **Claim 10:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Wilcox discloses *said medical diagnostic testing device receiving a retrieve instruction; and in response to said retrieve instruction, said medical diagnostic testing device displaying a stored test result and playing a recorded voice message associated with said stored test result* (see at least ¶0017, claim 6). In this reference, the computer is the testing device and the computer program serves as the way a user receives instructions. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to combine Wilcox's stored and retrieved information with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality of self-medical care for diabetic patients since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

25. **Claim 11:**

Ciurczak discloses the limitations as shown in the rejections above. Ciurczak does not disclose the following limitation, but Wilcox discloses *wherein recording a voice message comprises: receiving said voice message; converting said voice message into digital samples; and storing said digital samples* (see at

least Fig. 3, ¶0017). In this reference, the stored digital sample is the finalized electronic report. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to combine Wilcox's stored samples with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality of self-medical care for diabetic patients since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

26. **Claim 22:**

Ciurczak discloses the limitations as shown in the rejections above.

Ciurczak does not disclose the following limitation, but Wilcox discloses:

- *further comprising a user interface for receiving at least one user instruction for operating said medical diagnostic testing device (see at least ¶0009).*

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to combine Wilcox's user interface with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality and accessibility of self-medical care for diabetic patients since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

27. **Claim 23 :**

Ciurczak discloses the limitations as shown in the rejections above.

Ciurczak does not disclose the following limitation, but Wilcox discloses:

- *wherein said at least one user instruction includes a record instruction, wherein said medical diagnostic testing device records said voice message in response to said record instruction (see at least Wilcox's Fig. 3, ¶¶0009 and Maus' Fig. 1A, column 12, lines 14-26).*

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to combine Wilcox's record instruction with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality and accessibility of self-medical care for diabetic patients since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

28. **Claim 24:**

Ciurczak discloses the limitations as shown in the rejections above.

Ciurczak does not disclose the following limitation, but Wilcox discloses:

- *wherein said at least one user instruction includes a retrieve instruction, wherein said medical diagnostic testing device displays a stored test result and plays a recorded voice message associated with said stored test result in response to said retrieve instruction (see at least Fig. 2, ¶¶0009, ¶¶0016).*

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to combine Wilcox's record instruction with Ciurczak's diagnostic testing device to provide a more comprehensive glucose monitoring device. This would continue to help improve the quality and accessibility of self-medical care for diabetic patients since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

29. Claims 25, 27, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox (US 20050002483 A1) in view of Cunningham (US 6,306,104 B1).

30. **Claim 25:**

Wilcox discloses the limitations as shown below:

- *In a medical diagnostic testing device that obtains and stores test results, the improvement comprising* (see at least column 43, lines 4-21).

Wilcox discloses the limitations as shown in the rejections above. Wilcox does not disclose the following limitation, but Cunningham discloses the following limitations:

- *an audio system for recording a voice message associated with a test result* (see at least Fig. 1A, column 12, lines 14-26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Wilcox's medical diagnostic testing device to the recorded voice message results of Cunningham to provide a more comprehensive way of performing any diagnosis tests and get results quickly to have improved the efficiency of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

31. **Claim 27:**

Wilcox and Cunningham disclose the limitations as shown in the rejections above. Cunningham does not disclose the following limitation, but Wilcox further discloses *wherein said audio system includes digital storage for digitally storing a recorded voice message* (see at least Fig. 3, ¶0009).

32. **Claim 29:**

Wilcox and Cunningham disclose the limitations as shown in the rejections above. Wilcox and Cunningham do not disclose the following limitation, but Wilcox further discloses *a user interface for receiving a record instruction, wherein said medical diagnostic testing device records said voice message in response to said record instruction* (see at least Fig. 3, ¶0009). Here, the

computer is the testing device, the computer program is the means to receive instructions, the study is the test result and images are interpreted using voice recognition software.

33. **Claim 30:**

Wilcox and Cunningham disclose the limitations as shown in the rejections above. Wilcox and Cunningham do not disclose the following limitation, but Wilcox further discloses *a user interface for receiving a retrieve instruction, wherein said medical diagnostic testing device displays a stored test result and plays a recorded voice message associated with said stored test result in response to said retrieve instruction* (see at least Fig. 2, ¶¶0009, ¶¶0016).

Response to Arguments

34. Applicant' arguments with respect to claims 1, 12, 14, 25, 27, 29 and 30 have been fully considered but are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed 10/09/09.
35. Applicant's arguments that neither Ciurczak nor Cunningham disclose *"obtaining a test result using said medical diagnostic testing device;....storing said test*

result in said medical diagnostic testing device; and.....recording a voice message, associated with said test result, in said medical diagnostic test device"

with respect to original claims 1, 12 and 14. Rather, Maus' system has audible speakers to produce messages as a part of diagnostic device. Also, Ciurczak's voice recognition feature is the voice of an individual having recorded audible data used for the purpose of relaying a medical diagnosis or a test result message.

36. Applicant's arguments that neither Wilcox nor Cunningham disclose *"In a medical diagnostic testing device that obtains and stores test results, the improvement comprising: an audio system for recording a voice message associated with a test result"* with respect to original claims 25, 27, 29 and 30. Rather, Maus' system has audible speakers to produce messages as a part of diagnostic device. Also, Ciurczak's voice recognition feature is the voice of an individual having recorded audible data used for the purpose of relaying a medical diagnosis or a test result message. A message is relayed when diagnosing a person for medical purposes.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Teresa Woods** whose telephone number is **571.270.5509**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Jerry O'Connor** can be reached at **571.272.6787**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to **(571) 273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

Randolph Building
401 Dulany Street
Alexandria, VA 22314.

/T. W./
Examiner, Art Unit 3686
03/12/10

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686